



**DRAFT**

**SCOTTSDALE PLANNING COMMISSION  
CITY HALL KIVA  
3939 NORTH DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA  
SEPTEMBER 13, 2006**

**REGULAR MEETING MINUTES**

**PRESENT:** Steve Steinberg, Chairman  
James Heitel, Vice-Chairman  
David Barnett, Commissioner  
Steven Steinke, Commissioner  
Eric Hess, Commissioner  
Jeffrey Schwartz, Commissioner

**ABSENT:** Kevin O'Neill, Commissioner

**STAFF PRESENT:** Lusia Galav  
Randy Grant  
Frank Gray  
Sherry Scott  
Joe Padilla  
Kim Chafin

**CALL TO ORDER**

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Steinberg at 5:11 p.m.

**ROLL CALL**

A formal roll call was conducted, confirming members present as stated above.

Chairman Steinberg noted that 16-UP-2006, First Impressions Pre-School had been moved from the Expedited Agenda to the Regular Agenda.

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## **MINUTES REVIEW AND APPROVAL**

1. August 23, 2006 and August 30, 2006 (including Study Session)

Commissioner Barnett noted the August 30, 2006 regular session on page three his comments should include "-- and questioned whether independent economic data is relevant to land use." The fourth paragraph starting with "Mr. Gulino" the word "packed" should be "packet."

**VICE-CHAIRMAN HEITEL MOVED TO APPROVE THE STUDY SESSION AND REGULAR MEETING MINUTES OF AUGUST 23, 2006 AND AUGUST 30, 2006 AS AMENDED. SECONDED BY COMMISSIONER SCHWARTZ, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**

## **EXPEDITED AGENDA**

2. 10-AB-2006 Williams Estates  
Request by owner to abandon the General Land Office (GLO) patent easements along the western and southern boundaries of the property located at 12343 E. Shea Blvd.
3. 20-UP-2006 Cullum Custom Cabinets  
Request by owner for a conditional use permit for manufacturing and finishing of wood cabinetry and furniture on 70,500 +/- square feet parcel located at 7722 E. Gray Road with Industrial Park District (I-1) zoning.

**COMMISSIONER SCHWARTZ MOVED FOR APPROVAL OF 10-AB-2006 AND 20-UP-2006 WHICH MEETS THE CONDITIONAL USE PERMIT REQUIREMENTS. SECONDED BY VICE-CHAIRMAN HEITEL, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**

## **REGULAR AGENDA**

2. 16-UP-2006 First Impressions Preschool  
Request by owner for a conditional use permit for a private or charter school (pre-school, kindergarten, and aftercare program) on a 3.8 +/- acre parcel located at 3110 N. Hayden Road with Single Family Residential District (R1-7) zoning.

Ms. Chafin addressed the Commission. She reviewed the surrounding uses and noted a traffic study was reviewed and approved by the transportation department. No objections were heard at neighborhood meetings; staff recommended approval of the use.

Commissioner Hess commented on the wording concerning verifying enrollment should be stipulated to say enrollment should be verified "annually" instead of "upon request" because of past problems with similar requirements; that stipulation should apply to all schools. Ms. Berman, Applicant, explained that State licensing conducts annual checks and allows her facility a maximum of 90 students, which is the reason that number was requested. The State conducts unannounced inspections and reviews enrollment and class rosters. Vice-

Chairman Heitel suggested one solution would be to provide the City with verification from the State.

Ms. Galav expressed concern in general for all of these types of uses that a policy should be determined. Currently the City does not have a process for verifying enrollment information on a yearly basis; if a stipulation is to be imposed on one operator she recommended developing a policy to stipulate for all operators.

Commissioner Schwartz agreed that uniformity was needed and suggested approval of the application with a stipulation that verification would be required on an annual basis as determined by the City of Scottsdale staff, which would allow for a policy to be set at a later date. Commissioner Hess added if verification is not submitted, then Code Enforcement will have a tool for investigating.

In response to an inquiry by Commissioner Schwartz concerning the vacant lot to the rear of the parcel, Ms. Chafin confirmed that the numbers being calculated for the school were based upon the entire lot. Because they are percentage based requirements if in the future the vacant lot is removed, the open space requirement would still be met because enrollment is based on the square footage of classrooms.

In response to a question by Vice-Chairman Heitel, Mr. Grant explained that if the change to the property affects the terms of the conditional use permit then the conditional use permit would become nonconforming. In this case, the excess property would not have an effect on the use of the property; the dimensions of the property would just change.

In response to a question by Commissioner Steinke, Ms. Berman reiterated that the State conducts an annual unannounced review of enrollment, emergency cards and class rosters. Commissioner Steinke suggested that when writing stipulations that are enrollment based, staff include language requesting a copy of the State verification be used as compliance assurance until such time that a process is developed by the City.

Mr. Grant opined that the goal was to proactively inform the Applicant of the limitations of the conditional use permit. He suggested requiring the Applicant to provide the number of students enrolled at the beginning of each term.

In response to a question by Chairman Steinberg, Ms. Berman explained the types of enrollment: full day, two day a week, and three day a week students. The part-time students are equated as one for student number purposes.

Commissioner Schwartz expressed concern about the property being under two separate uses; splitting up the property would be poor planning. Ms. Scott clarified that if the lot is split the conditional use permit would stay only with the church; the split property would not have a conditional use permit. Because the Applicant is not using the vacant lot to meet the conditional use permit criteria it could not be stipulated that the lot could not be split.

Commissioner Schwartz commented that because the report was presented visually by highlighting the entire property, the Commission is looking at the entire site. He noted he was in favor of the preschool but was concerned about problems that would arise with a lot split, such as access.

Mr. Gray commented that currently there was no application for a lot split and the concentration should be on creating a conditional use permit for this particular use. He noted that in the future if a lot split application comes through which would violate the use permit criteria, the permit could be reviewed at that time as well as any access or parking problems that may arise. Ms. Chafin added that the Zoning Ordinance definition of open space does not allow the vacant portion to be considered for the school.

Ms. Galav clarified regarding student enrollment, the City of Scottsdale counts every student on the roster as a student whether they are part-time or full-time, which is a discrepancy when compared to the State. Mr. Gray suggested that the Applicant may want to continue until the next hearing. Commissioner Hess noted he would like to find a way to allow this particular case to move forward.

Mr. Gray suggested that the property designated for the preschool be highlighted on the map to clarify the areas that would be under the conditional use permit.

Marty McVey, 3030 N. Hayden Road, addressed the Commission in favor of the preschool but in opposition of the lot split. She noted rumors of a developer planning a 50-unit condominium complex for the property. She expressed concerns regarding the amount of traffic that would be generated with the combination of the school and residential area.

Elizabeth McConagee, 3030 N. Hayden Road, addressed the Commission. She expressed concerns about traffic turning off of Hayden, noting an already existing problem in that area as well as a concern about the possibility of condominiums being constructed.

Margaret Hickland addressed the Commission on behalf of the Scottsdale Greens Homeowners Association. She expressed concern about traffic and opposed allowing the back lot an R1-7 designation.

In response to a question by Commissioner Schwartz, Ms. Chafin confirmed there were no reciprocal access easements available to the property. Chairman Steinberg inquired whether a lot split would be allowed before access was granted. Ms. Scott explained that proper access would be ensured prior to a lot split being granted.

In response to the traffic concerns, Ms. Scott suggested that a stipulation could be included that if the lot were ever to split, the zoning administrator should review it and make sure it is in compliance with the conditional use permit.

Commissioner Schwartz commented that he agreed the application should be continued, because he did not want to see the property come back through at a staff level without a discussion regarding the back lot with an R1-7 designation. He opined that it would be poor planning to split the lot for residential use.

In response to an inquiry by Commissioner Steinke, Ms. Chafin noted that staff had conferred with the Applicant and come up with an amendment to the stipulation to state, "a maximum of 90 students shall attend classes on campus on any day", which would remain consistent with the traffic report. Mr. Gray clarified that the student enrollment was not half-day students, it was Tuesday/Thursday, Monday/Wednesday/Friday students, which did meet the criteria.

Mr. Gray recommended that the Commission require the Applicant to forward to the City the State report on an annual basis, along with a statement of enrollment.

Vice-Chairman Heitel suggested that a stipulation could be made regarding the lot split that any material change in the use of the property would require them to return to the Planning Commission.

**VICE-CHAIRMAN HEITEL MOVED FOR APPROVAL OF 16-UP-2006 WITH THE ADDED STIPULATION THAT NO OUTDOOR OPERATIONS WILL COMMENCE PRIOR TO 6 A.M. AND SHALL NOT OCCUR AFTER 8 P.M., THAT STIPULATION NUMBER ONE BE AMENDED TO INDICATE THAT A MAXIMUM OF 90 STUDENTS WOULD ATTEND THE CAMPUS ON ANY DAY AND THAT ANY STATEMENT OF ENROLLMENT FROM THE STATE BE FORWARDED TO THE CITY, AND THAT ANY MATERIAL CHANGE IN USE OF THE PROPERTY BE REQUIRED TO COME BACK BEFORE THE PLANNING COMMISSION FOR RECOMMENDATION OF THAT CHANGE IN USE, NOT OF APPROVAL OF THE APPROVED SCHOOL USE.**

Chairman Steinberg noted that it would be an infringement of property rights to require them to return as long as they built under the R1-7 zoning.

A discussion ensued regarding the appropriateness of stipulating that the Applicant return for recommendation for any material change in the use of the property. Ms. Scott noted that the conditional use permit could not be revoked as long as it is in compliance. Vice-Chairman Heitel clarified that he did not intend to evoke a revocation, just a review. Ms. Scott reiterated for an Applicant to come back to the Planning Commission, there would have to be some type of case to return with, they could not be required to return just for review. She clarified that there is no mechanism in the zoning ordinance for the Commission to review lot splits or make a recommendation, because City Council does not hear lot splits.

Mr. Gray suggested that a stipulation be used stating "in recognition of the public testimony that we heard tonight about traffic and access issues, that any future division of this property consider those issues in particular in relationship to this conditional use permit". He noted that could be a statement of condition. Commissioner Schwartz opined the purpose of the discussion was over concern of how the zoning administrator would handle the situation in the future.

In response to a question by Chairman Steinberg, Mr. Gray clarified that the impact of residential with an R1-7 zoning would be minimal; a 50-unit condo building would have to return to the Planning Commission.

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**ADJOURNMENT**

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission adjourned at 6:22 p.m.

Respectfully submitted,  
A/V Tronics, Inc.